

HOUSE BILL 847
By Johnson R

AN ACT to amend Tennessee Code Annotated, Section
45-6-213, relative to disposition of stolen property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-6-213, is amended by deleting subsection (b) in its entirety and instead substituting the following:

(b) A party asserting ownership of any property, which the party alleges is stolen and which is in the possession of a pawnbroker, may seek to recover such property by making a report to any law enforcement agency of the location of such property and providing the law enforcement agency with proof of ownership of the property, provided, that a report of the theft of the property was made to the proper authorities within thirty (30) days after obtaining knowledge of the theft or loss; and provided further, that the party asserting ownership will assist in the prosecution of the party pawning such item. Upon the receipt of such proof of ownership, any law enforcement officer is authorized to recover the property from the pawnbroker, without expense to the rightful owner thereof. An officer recovering the property shall give the pawnbroker verbal notice followed by written notice within forty-eight (48) hours of recovering the property that describes with specificity the property and records the date and time the officer took possession of the property. The officer is authorized to take possession of the property subject to the following provisions:

(1) Within thirty (30) days of the written notice, the pawnbroker may file an action in the general sessions court for a determination of the ownership rights to the property. The court may require a bond to protect against meritless claims. The court shall hold a due process hearing within ten (10) days of

service of process upon the party asserting ownership of the property and the officer retaining possession of the property to determine the owner of the property. At the hearing, the property shall be deposited with the court. The court shall issue a conditional judgment for the owner of the property and may tax costs as justice requires. However, the court shall retain possession of the property and shall release the property to the rightful owner:

(A) Following the conclusion of any criminal proceeding if the property was used as evidence in such proceeding; or

(B) Within thirty (30) days from the date of the hearing unless a petition for show cause why the property should be further detained is filed by the district attorney general and five (5) days notice of such hearing is given to the rightful owner. The court may grant or refuse to retain such property upon such terms and conditions as are adjudged to be proper.

(2) If the pawnbroker does not file an action in the appropriate court within thirty (30) days of the written notice, the officer may return the property to the party asserting ownership, subject to the property's use in any criminal proceeding.

SECTION 2. This act shall take effect July 1, 2005, the public welfare requiring it.